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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,774	08/31/2001	Ali Yahiaoui	14,832	1811

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EXAMINER

SALVATORE, LYNDIA

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 08/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/944,774

Applicant(s)

YAHIAOUI ET AL.

Examiner

Lynda M Salvatore

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-73 is/are pending in the application.
- 4a) Of the above claim(s) 26-50 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 15-25, 51-61 and 70-74 is/are rejected.
- 7) ☐ Claim(s) 6-14 and 62-69 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's amendment and accompanying remarks, Paper No. 9, have been entered. The specification and claims 1,8,9,12,18,23,64,67, and 72 have been amended as requested.

Applicant's amendments to claims 1,8,9,18,23,64,67, and 72 are found sufficient to overcome the 35 U.S.C. 112, second paragraph rejections set forth in sections 10-14 of the last Office Action. As such these rejections are withdrawn. However, despite this advance these amendments are not found to patently distinguish the claims over the prior art and Applicant's arguments are not found persuasive of patentability for reasons set forth herein below.

Election/Restrictions

2. Applicant's election without traverse of Group I, with a species election of a non-woven substrate in Paper No. 10, is acknowledged. As such, claims 26-50 are withdrawn as non-elected.

Specification

3. The amendment filed on 06/10/03, Paper No. 9, is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Specifically, the amendments regarding the application of the surfactant to the "top layer" of the substrate, and the paragraph regarding the maximization of the utilization of superabsorbent material (Applicants amendments to the specification, Page 2, last paragraph) are not found to be supported. Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claim 12 stands rejected as indefinite because of the language used to claim the pH range. Specifically, it appears that the Applicant failed to amend claim 12 to include a complete pH range.

Claim Rejections - 35 USC § 102/103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 1-5, 15-25, 51-61, and 70-74 stand rejected under 35 U.S.C. 102(a) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Quincy et al., WO 00/50098.

Applicant amended claim 1 to clarify that the surfactant applied to the first layer of the substrate “lowers” the surface tension of a fluid which contacts the first layer of the substrate, but does not adversely effect the absorption capacity or wicking height of the second layer of the substrate and the second layer of the substrate substantially inactivates the surfactant. Applicant asserts that the relied upon reference of Quincy et al., does not explicitly teach a layer that includes a surfactant and a layer that inactivates the surfactant. Applicant asserts that the “second” layer that inactivates the surfactant include layers that are treated with an amount of acid or an amount of base such that said treated layer inactivates or degrades the applied surfactant transmitted from first layer (Applicant’s response, Page 5). These arguments are not

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found persuasive on the grounds that it is the position of the Examiner that Quincy et al., meets the limitations explicitly and inherently. Recall, that the published PCT application to Quincy et al., discloses a thermoplastic layer material, which has been treated with a surfactant-modified odor control agent (Page 3, 1-5). Quincy et al., teaches that the thermoplastic layer may be non-woven filament web, a thermoplastic film, a foam layer or combination thereof (Page 3, 12-18). The non-woven web may be a single or multi-layer composite comprising one or more non-woven web, film, or foam layers (Page 11, 10-20). The odor control agent is mixed with a surfactant to yield a surfactant-modified odor control agent (Page 12, 25-30). Quincy et al., teaches that in the case of absorbent product applications, the treated layer material can be used as a cover sheet or containment matrix for an absorbent medium capable of absorbing liquids (Page 17, 25-28). The absorbent medium may include pulp fibers alone or in combination with a super-absorbent material (Page 17, 27-29).

To that end, the Examiner asserts that a multi-layer composite, comprising an absorbent layer made of pulp and/or super-absorbent materials and a cover layer which has been surface treated with an surfactant-modified odor control agent meets the limitations set forth in the above aforementioned rejected claims. With regard to Applicant's argument that the "second" layer which allegedly inactivates the surfactant applied to the first layer *include layers that are treated with an amount of acid or an amount of base such that said treated second layer inactivates or degrades the applied surfactant transmitted from first layer*, the Examiner would like to point out that the Applicant is not claiming such a structure (emphasis added). Presently, the second layer is claimed in terms of function rather than the chemical or structural characteristics (i.e., second layer of the substrate substantially inactivates the surfactant). Accordingly, it is the

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position of the Examiner that since Quincy et al., meets the structural and chemical limitations of the instantly claimed invention, the limitations of surface tension, absorption capacity or wicking height properties as recited in claims 1,23, and 51, as well as the third surface tension values as recited in claims 52-55, must be inherent to the invention Quincy et al. The burden is shifted to the Applicant to evidence the contrary.

Allowable Subject Matter

8. As set forth in section 17 of the last Office Action, claims 6-14, and 62-69 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Specifically, these claims are allowable over the prior art of record since there is no teaching to an acidic or basic second substrate layer having pH values of those set forth in claims 9-14, and 64-69. Presently, there is no motivation or suggestion to combine references to form an obvious type rejection.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 703-305-4070. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

ls

August 25, 2003


CHERYL A. JUSKA
PRIMARY EXAMINER